

IT IS SO ORDERED.

Dated: July 3, 2013  
03:45:22 PM



*Kay Woods*  
 Kay Woods  
 United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

IN RE:

TERRY JAMES BIXLER,  
  
Debtor.

\*  
\*  
\*  
\*  
\*  
\*  
\*

CASE NUMBER 07-40221  
  
CHAPTER 13  
  
HONORABLE KAY WOODS

\*\*\*\*\*  
MEMORANDUM OPINION REGARDING MOTION OF CITIFINANCIAL, INC.  
FOR RELIEF FROM ORDER  
\*\*\*\*\*

Before the Court is Motion of Citifinancial, Inc. for Relief from Order ("Motion for Relief") (Doc. # 75) filed by Citifinancial, Inc. ("Citi") on June 12, 2013. Citi seeks relief from two prior orders of the Court: (1) Order to Appear and Show Cause ("Show Cause Order") (Doc. # 68) entered on April 19, 2013; and (2) Order (i) Finding Citifinancial in Contempt; and (ii) Imposing Sanctions, Including \$1,000.00 Per Day Until the Vehicle's Title is Turned Over to Debtor's Counsel

("Sanctions Order") (Doc. # 70) issued on May 10, 2013. Citi relies on Federal Rule of Civil Procedure 60(b), made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 9024. Citi contends the two orders are void because Citi allegedly did not receive notice of the following: (i) Discharge of Debtor After Completion of Chapter 13 Plan ("Discharge Order") (Doc. # 60) entered by this Court on September 19, 2011; (ii) Motion for an Order to Show Cause for Violating 11 USC § 1328 ("Show Cause Motion") (Doc. # 66) filed by Debtor Terry James Bixler ("Debtor") on April 10, 2013; (iii) the Show Cause Order; and (iv) the Sanctions Order.

The Court held a hearing on the Motion for Relief on June 27, 2013, at which appeared (i) Robert C. Folland, Esq. on behalf of Citi; (ii) Robert A. Ciotola, Esq. on behalf of the Debtor; (iii) and Michael A. Gallo, Standing Chapter 13 Trustee ("Trustee"). For the reasons set forth below, the Court will grant the Motion for Relief, in part, and deny it, in part.

This Court has jurisdiction pursuant to 28 U.S.C. § 1334 and the general orders of reference (General Order Nos. 84 and 2012-7) entered in this district pursuant to 28 U.S.C. § 157(a). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1391(b), 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). The following constitutes the Court's findings of fact and conclusions of law pursuant to FED. R. BANKR. P. 7052.

## I. FACTUAL AND PROCEDURAL BACKGROUND

By way of background, on February 5, 2007, the Debtor filed a voluntary petition pursuant to chapter 13 of Title 11. On that same date, the Debtor filed his chapter 13 plan ("Plan") (Doc. # 2), which provided, "CITIFINANCIAL, on the 1991 Nissan Stanza,<sup>1</sup> shall be paid in the plan at 100% of the secured value at 9.25% interest or contract rate, whichever is lower and the balance to be paid as a general unsecured claim." (Plan ¶ 2 C.) The Plan provided for allowed unsecured claims to be paid a 10% dividend (*id.* ¶ 4) and stated, "Any creditor who has the secured value of their [sic] allowed claim paid shall immediately issue a release of any title or security agreement to the debtor; this obligation shall be placed upon the creditor even if the unsecured portion of the claim is not yet paid." (*Id.* ¶ 12.) The Plan was confirmed upon entry of Order Confirming Plan ("Confirmation Order") (Doc. # 17) on March 23, 2007.

The Debtor listed the address for Citi on Schedule D and the Creditor Matrix as "Citifinancial, 6000 Mahoning Avenue, Suite 98, Youngstown, Ohio 44515" ("Mahoning Address").

On May 4, 2007, Citi filed a proof of claim, denominated Claim No. 8-1 ("Claim 8"), which consisted of a single page without attachments. Citi listed its address on Claim 8 as the Mahoning Address. Citi checked the boxes on Claim 8 indicating

---

<sup>1</sup> The 1991 Nissan Stanza is referred to herein as the Vehicle.

that the claim was secured by a motor vehicle and listed a claim in the total amount of \$11,289.44, comprised of a secured amount of \$2,450.00, and a general unsecured amount of \$8,839.44. No interest amount or interest rate was included on Claim 8. Language on the proof of claim form advised Citi to "[a]ttach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. . . . If the documents are not available, explain. If the documents are voluminous, attach a summary." (Official Form B10 ¶ 7.) Despite this instruction, Citi did not attach any documents, explanation or summary to Claim 8.

On November 9, 2007, the Debtor filed Objection to Claim of Citifinancial Claim #8, Filed 5-4-07 ("Claim Objection") (Doc. # 29), which sought to reduce the secured amount of Claim 8 from \$2,450.00 to \$850.00. The Certificate of Service on the Claim Objection states that Citi was provided notice at the Mahoning Address.

The Court entered Order (Doc. # 31) on December 11, 2007, which sustained the Claim Objection. The Order stated Claim 8 "shall be paid secured in the amount of \$850 and the balance shall be paid as a general unsecured claim." The Order was served on Citi at the Mahoning Address.

On September 19, 2011, the Trustee filed Notice of Completion of Plan Payments and Request for Discharge (Doc. # 59), in which the Trustee reported that the Debtor "completed all payments provided for under the Plan submitted and confirmed by this Court." That same day, the Court entered the Discharge Order. Notice of the Discharge Order was mailed to Citi at the Mahoning Address; however, the Bankruptcy Noticing Center ("BNC") Certificate of Service indicates that the Mahoning Address for Citi was "identified by the USPS National Change of Address system as undeliverable. Notices will no longer be delivered by the USPS to [this] address[]; therefore, [it has] been bypassed. The debtor's attorney . . . was advised that the specified notice was undeliverable." (See Doc. # 61.)

On November 16, 2011, the Trustee filed Chapter 13 Standing Trustee's Final Report and Account ("Final Report") (Doc. # 62), which showed that Citi's allowed secured claim in the amount of \$850.00 was paid in full<sup>2</sup> and Citi's allowed unsecured claim in the amount of \$10,439.44 was paid in the amount of \$1,043.94 – *i.e.*, at a rate of 10%, as provided in the confirmed Plan.

The Debtor's case was closed on November 16, 2011. On March 26, 2013, the Debtor filed Motion to Re-Open Case Pursuant to 11 U.S.C. 350 ("Motion to Reopen") (Doc. # 64), which the Court granted on April 10, 2013. (See Doc. # 65.) The Debtor

---

<sup>2</sup> The Trustee paid Claim 8, as filed and allowed, which did not include any interest.

served Citi with the Motion to Reopen at (i) the Mahoning Address; and (ii) at "Citifinancial, Bankruptcy Department-3-90, 6400 Las Colinas Blvd. Center, Irving, TX 75039" ("Irving Address"). After his case was reopened, the Debtor filed the Show Cause Motion. The Debtor requested an order directing Citi to appear before this Court and show cause why it should not be found to have violated the discharge injunction in 11 U.S.C. § 1328 by failing to turn over title to the Vehicle. The Debtor also sought sanctions against Citi based upon its alleged conduct. In particular, the Debtor alleged the following:

4. On August 31, 2012 a letter was sent to CitiFinancial asking for the release of the title for the 1991 Nissan Stanza.

5. On November 29, 2012, Robert A. Ciotola, Attorney for Debtor made a telephonic call to the local CitiFinancial asking for release of the title to the 1991 Nissan Stanza.

6. On November 29, 2012, Robert A. Ciotola, Attorney for Debtor made a telephonic call to the bankruptcy department at CitiFinancial asking for release of the title to the 1991 Nissan Stanza.

7. On January 10, 2013 a certified letter was sent to CitiFinancial asking for the release of the title for the 1991 Nissan Stanza.

8. CitiFinancial has not released a car title for the 1991 Nissan Stanza.

(Show Cause Mot. ¶¶ 4-8.) The Certificate of Service attached to the Show Cause Motion states that it was sent by regular U.S. mail to Citi at the Irving Address. (*Id.* at 2.) Based upon the

allegations in the Show Cause Motion, the Court issued the Show Cause Order, which was sent by first class mail to Citi at the Irving Address. (See Doc. # 69.)

The Court held the Show Cause Hearing on May 9, 2013, at which appeared Mr. Ciotola on behalf of the Debtor. In contravention of the Show Cause Order, no representative of Citi appeared at the Hearing. As a consequence, the Court telephoned Citi's bankruptcy department at a telephone number provided by Mr. Ciotola.<sup>3</sup> Citi was advised that the Court was in session and a representative of Citi had failed to appear in contravention of the Show Cause Order. The Court asked to speak with a member of Citi's law department, but was repeatedly placed on hold and informed that a member of the law department could not be reached. The Court also asked to speak with a supervisor, but

---

<sup>3</sup> At 10:42:43 a.m. on May 9, 2013, the courtroom deputy ("CRD") called Citi at 800-401-9836. At 10:42:51, the call was picked up by a recording before a person came on the line. At 10:43:50, the CRD asked to speak with someone in the bankruptcy department; identified herself as calling from the United States Bankruptcy Court in Youngstown, Ohio; and informed the person that the Court was in session with Judge Woods presiding. The CRD further stated that the Court had issued an Order to Appear and Show Cause on Citi; that no representative of Citi had appeared at the hearing; and that the Court had instructed her to contact Citi in an attempt to get someone on the line to address the issues.

The Court was put on hold. When the person returned, the CRD identified herself again and asked to speak with someone in the legal department.

At 10:47:59, the person returned to the phone to say that she could not reach anyone in the legal department, but that the Court could leave a voice mail message. Because the Court did not want voice mail, at 10:48:18, the CRD asked to speak with a supervisor. At 10:49:52, the Court was told that a manager was trying to get someone on the line from the legal department,

At 10:55:09, after not having anyone return to the phone on behalf of Citi, the Court terminated the call.

was denied that courtesy. The Court terminated the call after more than twelve minutes (most of which time was spent on hold) without speaking to anyone other than the receptionist/operator who answered the phone.

Mr. Ciotola represented to the Court that he had placed 14 to 18 calls to Citi, but was unable to speak with a representative who could address the issue presently before the Court - *i.e.*, turnover of title to the Debtor's Vehicle. On one occasion, Mr. Ciotola was advised by a Citi representative that a balance was due on the loan for the Vehicle. In addition, the Debtor went to Citi's local office and requested turnover of title to the Vehicle, but was unsuccessful. Mr. Ciotola advised the Court that he had expended a great deal of time seeking turnover of the Vehicle title from Citi.

Based upon the representations of the Debtor in the Show Cause Motion and Mr. Ciotola at the Show Cause Hearing, the Court found Citi (i) willfully failed to comply with the discharge injunction in 11 U.S.C. § 1328 by failing or refusing to turn over title to the Debtor's Vehicle, which conduct prevented the Debtor from realizing the protections afforded by the Bankruptcy Code; and (ii) in contempt. The Court ordered Citi to pay (i) Mr. Ciotola attorney fees in the amount of \$2,000.00; and (ii) the Debtor compensatory damages in the amount of \$1,000.00. The Court also directed Citi to immediately

turn over to Mr. Ciotola title to the Debtor's Vehicle. Finally, the Court ordered that Citi would be fined \$1,000.00 each day beginning May 13, 2013 until Citi provided Mr. Ciotola with title to the Debtor's Vehicle.

On May 29, 2013, the Debtor filed Motion for an Order Determining that Lien Should be Removed ("Motion to Remove Lien") (Doc. # 72), which stated that Citi has failed to provide the title to the Vehicle. The Motion to Remove Lien was sent to Citi at the Irving Address. On June 12, 2013, Citi filed Response of Citifinancial, Inc. to Debtor's Motion for an Order Determining that Lien Should be Removed ("Response") (Doc. # 74), which stated that it did not oppose the motion because Citi had already provided the Debtor with a Certificate of Title Release. Citi further represented that the Debtor was incorrect in stating (i) Citi had been paid on its secured claim in full; (ii) the Trustee completed all payments to Citi; and (iii) Citi failed to return the title to the Vehicle. (Resp. at 2.) Citi alleges it was entitled not only to payment of its allowed secured claim in the amount of \$850.00, but also interest at the rate of 9.25% or the contract rate, whichever is less<sup>4</sup> - which it did not receive. Citi contends that it was not required to turn

---

<sup>4</sup> As set forth, *infra*, because Citi never identified a contract rate of interest, it was impossible for the Trustee to determine whether 9.25% or the contract rate was less. Accordingly, paying no interest on the secured portion of Claim 8 was appropriate.

over the Vehicle title until it was paid interest on its secured claim.

On June 14, 2013, the Debtor filed Notice of Withdrawal of Motion for an Order Determining That Lien Should be Removed (Doc. # 76), which states the Debtor received a Certificate of Release from Citi on June 12, 2013.<sup>5</sup>

## **II. LEGAL ANALYSIS**

Citi argues that the Show Cause Order and the Sanctions Order are both void because the Debtor failed to provide Citi with the constitutionally required notice of the Show Cause Motion, thus depriving Citi of a fair and reasonable opportunity to be heard. (Mot. for Relief at 5-6.)

Citi cites cases for the proposition that this Court's orders are void; however, the cases cited for that proposition are all distinguishable. None of the cases cited by Citi deal with circumstances similar to what is currently before the Court - *i.e.*, a creditor (i) files a proof of claim with an address for noticing purposes, (ii) fails to provide the Court with a change of address during the pendency of the chapter 13 case, and (iii) then complains of a violation of due process because

---

<sup>5</sup> Citi contends in the Motion for Relief that it learned of the Sanctions Order on May 31, 2013 and "immediately . . . released the lien on Debtor's vehicle that very same day." (Mot. for Relief at 5.) Citi concedes, however, that it misspelled the Debtor's name on the original Certificate of Title Release and had to execute and mail a replacement Certificate of Title Release to Debtor on June 11, 2013. (*Id.*)

it fails to receive notice of motions filed and orders entered after the creditor moved.

Citi provided the Court with the Mahoning Address for all noticing purposes when it filed Claim 8. Thereafter, Citi failed to notify the Court of its change of address. Despite its failure to provide the Court (and Debtor's counsel) with notice of its new address, Citi accepts no responsibility for its failure and, to the contrary, alleges that the Debtor bears the burden of making sure that Citi knew about the Discharge Order and other orders of the Court. Citi points out that Debtor's counsel was aware Citi had not received notice of the Discharge Order because the BNC stated Citi's Mahoning Address was "undeliverable." (Mot. for Relief at 3.) Citi argues, "Debtor cannot establish that Citi had knowledge of the Discharge Order. . . . The burden is on Debtor to make a prima facie showing of a violation, including Citi's knowledge of the court's order." (*Id.* at 11.)

Despite Citi's protestations to the contrary, Citi was responsible for providing the Court with a correct address for noticing purposes. Failure to comply with this obligation does not turn the tables and make it the Debtor's burden to show that Citi received notice. Pursuant to Federal Rule of Bankruptcy Procedure 2002(g), Citi was obligated to provide the Court with an address for noticing purposes. Rule 2002(g) states, in part:

(g) ADDRESSING NOTICES.

(1) Notices required to be mailed under Rule 2002 to a creditor . . . shall be addressed as such entity . . . has directed in its last request filed in the particular case. For the purposes of this subdivision -

(A) a proof of claim filed by a creditor . . . that designates a mailing address constitutes a filed request to mail notices to that address[.]

FED. R. BANKR. P. 2002(g) (West 2013; same in 2007).

Citi's failure to provide the Court with a correct address is the reason that Citi did not receive notice of the Discharge Order or the Final Report. Because the failure to receive notice was totally within Citi's control, Citi has no basis to complain that it did not receive notice of the Discharge Order or the Final Report. (See Mot. for Relief at 3-4, 11.) Citi's complaints in this regard are akin to the man who kills his parents and then laments that he is an orphan.

Citi also states that the Irving Address is incorrect and that it has no record of receiving the Show Cause Motion, the Show Cause Order or the Sanctions Order. Citi represents that its correct address is: 6400 Las Colinas Blvd., Irving, TX 75039 ("Citi's Irving Address"). (*Id.* at 7 n.2.) Citi contends that it conducted a "review of its records [and] that it did not receive any of the court documents that were sent to [the Irving Address]." <sup>6</sup> *Id.* at 7.

---

<sup>6</sup> Citi's counsel made this argument, but provided no evidence - not even an affidavit from someone at Citi - regarding (i) the scope and reasonableness of the search Citi made for the Show Cause Motion, the Show Cause Order

The discerning reader will observe that the only difference between the Irving Address and Citi's Irving Address is the addition of the word "Center" after Blvd. in the Irving Address. This additional word *might* be significant absent the following three facts. First, no mail sent to the Irving Address was returned to the Court as "undeliverable" or "return to sender addressee unknown" or for any other reason. Second, counsel for the Debtor represented that no document or correspondence he mailed to Citi at the Irving Address was returned for any reason. Finally, Mr. Ciotola represented at the Hearing that he had a certified mail "green card" showing receipt of correspondence he sent to the Irving Address, which was signed on January 15, 2013 by F. Medina on behalf of Citi. The Court asked Mr. Ciotola to read the content of the letter received by Citi into the record. That letter informed Citi of the Debtor's bankruptcy and discharge and requested Citi to release title to the 1991 Nissan.

"A signed return of service constitutes prima facie evidence of valid service which can be overcome only by strong and convincing evidence." *Perfect Score Co. v. Miller*, 2011 U.S. Dist. LEXIS 11878, \*9 (N.D. Ohio Sept. 29, 2011) (quoting *O'Brien v. R.J. O'Brien & Assocs., Inc.* 998 F.2d 1394,

---

and/or the Sanctions Order; and/or (ii) the procedures employed by Citi when legal documents, including motions and court orders, are received at Citi's Irving Address in the mail.

1398 (7th Cir. 1993)). "Using certified mail provides the [sender] with documentation of personal delivery and protection against false claims that notice was never received." *Jones v. Flowers*, 547 U.S. 220, 237 (2006). In January of this year, someone, on behalf of Citi, signed for the certified correspondence at the Irving Address. Coupled with the fact that no mail sent to Citi at the Irving Address was ever returned to the Court or to counsel for the Debtor, there is more than a strong presumption - there is a *prima facie* case - that Citi received notice of the Motion to Show Cause, the Show Cause Order and the Sanctions Order. This Court finds that the small difference between the Irving Address and Citi's Irving Address fails to establish that Citi was not afforded due process and notice of the Show Cause Motion, the Show Cause Order and/or the Sanctions Order. Citi's argument to the contrary is merely self-serving.

Due process requires notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Due process does not require actual notice. *See Jones*, 547 U.S. at 225. Here, Citi provided the Mahoning Address for noticing purposes, but failed to provide the Court with a change of address after it moved. This failure

was wholly within Citi's control. If Citi had provided the Court with notice of Citi's Irving Address, the slight variation used by the Debtor and the Court in utilizing the Irving Address for noticing purposes would not have occurred. Use of the Irving Address was not a "mere gesture"; rather, "with due regard for the practicalities and peculiarities of [this] case" use of the Irving Address was reasonable and satisfied the constitutional requirements. *Mullane*, 339 U.S. at 314-15.

Moreover, it appears that the Motion to Show Cause and the two subsequent Court orders were actually received by Citi at the Irving Address, despite Citi's unsupported statements to the contrary. Because Citi has not demonstrated that the notice provided by the Debtor and the Court was not reasonably calculated, under all the circumstances, to apprise it of the Show Cause Motion and the orders that followed, this Court finds that the Show Cause Order and the Sanctions Order are not void. To the extent that the Motion for Relief seeks to have this Court find the Show Cause Order and the Sanctions Order to be void, the Motion for Relief will be denied.

### **III. DAILY FINE OF \$1,000.00**

Counsel for Citi argued at the hearing that Citi (i) had already released its lien on the Vehicle; (ii) had issued a check in the amount of \$1,000.00 payable to the Debtor and delivered such check to counsel for the Debtor; and (iii) did

not object to paying \$2,000.00 to the Debtor's counsel as and for attorney fees. However, Citi strenuously objected to the imposition of the fine of \$1,000.00 per day on the basis that Citi did not willfully violate any order of this Court.

Despite finding the Show Cause Order and the Sanctions Order to be valid and not void, this Court finds some merit to Citi's argument that its failure to release its lien was not a willful violation of this Court's orders. Citi points out that, upon learning of the Sanctions Order on May 31, 2013, it issued the Certificate of Title Release the very same day. Unfortunately, the Certificate misspelled the Debtor's name as "Terry Bixley" instead of Terry Bixler; as a consequence, the Debtor did not receive a correct Certificate until June 12, 2013. The Court does not believe this misspelling was intentional or willful, but rather merely careless.<sup>7</sup>

The Court believes only the imposition of the daily fine of \$1,000.00 prompted Citi to finally take action and release the Vehicle title to the Debtor. This is particularly true since Citi (i) takes no responsibility for its failure to provide the Court with a correct address, and (ii) argues that it continues to have no obligation to release the Vehicle title. As a

---

<sup>7</sup> Citi has exhibited a pattern of carelessness. In addition to the spelling error on the Certificate, (i) Citi failed to apprise the Court of its change of address; and (ii) in an unrelated chapter 13 case also before this Court on June 27, 2013, Citi failed to release the lien on a vehicle for more than seven months following entry of the discharge order although it had no justification for such failure. *In re Youngblood*, Case No. 07-41741.

consequence, the Court is reluctant to remove the fine since it appears to be the impetus for Citi to have taken action. However, based upon the totality of the facts before the Court, the Court determines that Citi's conduct was not willful and, as a consequence, this Court will relieve Citi of the obligation to pay the fine of \$1,000.00 per day.

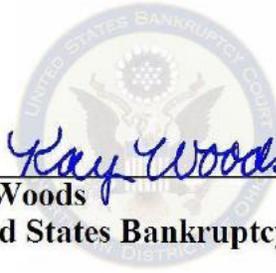
To the extent the Motion for Relief seeks modification of the Sanctions Order to remove the imposition of the daily fine, it will be granted.

An appropriate order will follow.

# # #

IT IS SO ORDERED.

Dated: July 3, 2013  
03:45:22 PM



*Kay Woods*  
 Kay Woods  
 United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

IN RE:

TERRY JAMES BIXLER,  
  
Debtor.

\*  
\*  
\* CASE NUMBER 07-40221  
\*  
\* CHAPTER 13  
\*  
\* HONORABLE KAY WOODS  
\*

\*\*\*\*\*  
ORDER GRANTING, IN PART, AND DENYING, IN PART, MOTION OF  
CITIFINANCIAL, INC. FOR RELIEF FROM ORDER  
\*\*\*\*\*

Before the Court is Motion of Citifinancial, Inc. for Relief from Order ("Motion for Relief") (Doc. # 75) filed by Citifinancial, Inc. ("Citi") on June 12, 2013. Citi seeks relief from two prior orders of the Court: (1) Order to Appear and Show Cause ("Show Cause Order") (Doc. # 68) entered on April 19, 2013; and (2) Order (i) Finding Citifinancial in Contempt; and (ii) Imposing Sanctions, Including \$1,000.00 Per Day Until the Vehicle's Title is Turned Over to Debtor's Counsel

("Sanctions Order") (Doc. # 70) issued on May 10, 2013. Citi relies on Federal Rule of Civil Procedure 60(b), made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 9024. Citi contends the two orders are void because Citi allegedly did not receive notice of the following: (i) Discharge of Debtor After Completion of Chapter 13 Plan ("Discharge Order") (Doc. # 60) entered by this Court on September 19, 2011; (ii) Motion for an Order to Show Cause for Violating 11 USC § 1328 ("Show Cause Motion") (Doc. # 66) filed by Debtor Terry James Bixler ("Debtor") on April 10, 2013; (iii) the Show Cause Order; and (iv) the Sanctions Order.

For the reasons set forth in this Court's Memorandum Opinion Regarding Motion of Citifinancial, Inc. for Relief from Order entered as of this date, the Court hereby:

1. Finds, pursuant to Federal Rule of Bankruptcy Procedure 2002(g), that Citi provided the Court with the Mahoning Address for all noticing purposes when it filed Claim 8;
2. Finds that Citi failed to update its mailing address for noticing purposes during the pendency of the Debtor's chapter 13 case, which failure was wholly within Citi's control;
3. Finds, based on Citi's failure to update its mailing address, that any lack of notice with respect to the

Discharge Order cannot provide a basis for Citi's requested relief;

4. Finds that the Debtor has established a prima facie case that Citi received notice of the Motion to Show Cause, the Show Cause Order and the Sanctions Order at the Irving Address, which Citi has failed to overcome by strong and convincing evidence;
5. Finds that the notice provided by the Debtor and the Court comports with the constitutional requirements of due process;
6. Finds that the Show Cause Order and the Sanctions Order are valid and not void; and
7. Denies the Motion for Relief to the extent that it requests this Court to invalidate and void the Show Cause Order and the Sanctions Order.

The Court further:

1. Finds that Citi, upon learning of the Sanctions Order on May 31, 2013, took action to release its lien on the Debtor's Vehicle;
2. Finds that Citi has, in fact, released its lien on the Vehicle and surrendered title to the Vehicle to the Debtor;

3. Finds that Citi did not willfully violate any order of this Court by failing to release its lien on the Debtor's Vehicle;
4. Grants the Motion for Relief to the extent that it requests this Court to modify the Sanctions Order to remove the imposition of the \$1,000.00 fine per day; and
5. Relieves Citi of the obligation to pay the fine of \$1,000.00 per day.

# # #